IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

TUESDAY, THE FOURTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 12632 of 2004

Between:
1.Dangeti Appa Rao, S/o Veeranna,
R/o Madhavapatnam, Samalkote, East Godavari District.
2.Penke Vasanthu, S/o Naganna,
R/o Madhavapatnam, Samalkote, East Godavari District.
..... PETITIONERS

AND

1 Government of A.P. Rep. by its Secretary, Endowment Department,
Secretariat Buildings, Hyderabad.
2 The Commissioner of Endowments, Boggulakunta, Hyderabad.
3 The Assistant Commissioner of Endowments, Near Prakash Nagar Park,
Danavaipet, Rajahmundry, East Godavari District.
4 Sri Jagadamba Ammavari Devasthanam, Rep. by its Founder Family
Member, K. Ravi Chandra, Madhavapatnam, Samalkote Mandal, East
Godavari District.
.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus, or any other appropriate writ, order or direction, declaring the action of the 4th respondent's publication of pamphlets for the auction of the leasehold rights of the lands in Sy.No.106 of Ac. 8.30 cents, 142/4 Ac. 1.01 cents, 142/5 Ac. 2.67 cents, and further direct the 4th respondent not to give any publications for auction of lease hold rights of the remaining lands in Sy.Nos.141/1 Ac. 5.05 cents, 141/2 Ac. 0.91 cents, together total an extent of 17.90 cents situate at Madhavapatnam, Samalkote Mandal, East Godavari District, without

following the procedure.

Counsel for the Petitioners: MRS.D.GEETHA

Counsel for the Respondent Nos.1 to 3: GP FOR ENDOWMENTS

Counsel for the Respondent No.4: MR.M.VIJAYA KUMAR

The Court at the admission stage made the following:

ORDER:

Petitioners, two in number, filed this writ petition seeking a writ of Mandamus declaring the alleged action of the fourth respondent-Devasthanam in proposing to conduct auction in respect of the leasehold rights of the lands in Survey Nos.106, 141/1, 141/2, 142/4 and 142/5 of Madhavapatnam village, Samalkot Mandal, East Godavari District, as arbitrary and illegal.

The case of the petitioners is that they are cultivating tenants in respect of the land in question which belongs to the fourth respondent. Admittedly, the extent of land is Ac.17.94 cents. It is stated that lease was granted in favour of the joint family of the petitioners and they have been paying the 'Maktha' in time regularly and they never committed any default. The petitioners claim that if the land is partitioned among the members of the joint family, they are entitled to be declared as landless poor persons so as to get the benefit of Section 82(2) of the Andhra Pradesh Charitable and Hindu

Religious Institutions and Endowments Act, 1987 (for short 'the Act'). It is also stated that they made an application under Rule 4 of the Rules issued in G.O.Ms.No.379/2003 making a claim that they are the landless poor persons and the same is pending before the Assistant Commissioner of Endowments, Rajahmundry. But, in the meanwhile, the fourth respondent is taking steps to dispossess the petitioners and to put the leasehold rights of the land in question to public auction. Hence, this writ petition.

Initially this Court, while ordering notice, by order dated 21.07.2004 granted stay of auction scheduled to be held on 27.07.2004.

Now on behalf of the fourth respondent a detailed counter affidavit has been filed denying all the allegations made by the petitioners and stating that as per their enquiry in the office of the Assistant Commissioner of Endowments, Rajahmundry, the petitioners never filed any petition or representation making a claim that they are the landless poor persons. Since, the land is to an extent of Ac.17.94 cents, which is not liable to be divided among the family members, the petitioners are not entitled to the benefit of Section 82(2) of the Act. It is further stated that as a matter of fact the petitioners on 24.06.2004, have voluntarily handed over the possession of the land in question. In pursuance of the

same, the fourth respondent having taken the possession of the land while taking steps to put the leasehold rights to auction, the petitioners filed this writ petition making all false claims.

No reply affidavit has been filed by the petitioners contradicting the stand taken by the fourth respondent in their counter. In view of the specific stand taken by the fourth respondent that no enquiry is pending before the Assistant Commissioner of Endowments and that the petitioners have already handed over the possession of the land in question to the fourth respondent, I do not find any merit in the writ petition and the interim stay granted on 21.07.2004 cannot be continued.

Accordingly, the writ petition is dismissed and the interim stay granted on 21.07.2004 shall stand vacated. No costs.

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14.09.2004

VGB

To

1 The Secretary, Government of A.P., Endowment Department, Secretariat Buildings, Hyderabad.
2 The Commissioner of Endowments, Boggulakunta, Hyderabad.
3 The Assistant Commissioner of Endowments, Near Prakash Nagar Park,
Danavaipet, Rajahmundry, East Godavari District.
4 2CCs to the Government Pleader for Endowments, High Court Buildings, Hyderabad (OUT)
5 2CD copies